(1) CF 100L

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G)

W.P. 2678 /2005.

PETITIONER : Smt. Sunita Verma w/o Rajendra Kumar Verma, Aged about 36 years, R/o Sector-10, St.30/2C Bhilainagar, Distt.Durg (C.G.).

Versus.

RESPONDENTS : (1) State of Chhattisgarh, Through Secretary, Family Welfare & Health Deptt. D.K.S. Bhawan, Raipur.

(2) Chief Medical Officer/Health Officer, Distt.Hospital,Durg.

P.R. No. 2287/65 Presented by Shri T.K. Tiwari dated 22/7/05

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

(30)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.2628/..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14.07.2005

Mr. T.K. Tiwari, learned counsel for the petitioner.

Mr. Bhaskar Payashi, learned Panel Lawyer for the State of Chhattisgarh.

Notice was issued on 29.06.2005 when Mr. Vivek Sharma, learned Panel Lawyer for the State appeared and accepted the notice for respondents. No reply has been filed till date.

Learned counsel appearing for respondents prays for two weeks time, as last adjournment, to file reply of the respondents.

Time is granted.

M.(W).P.No.2202 of 2005

This is an application for grant of interim relief.

Learned counsel for the petitioner submits that the impugned transfer order has been passed contrary to the provisions of Transfer Policy 2004-05. Clause 4 of the policy provides that a government employee be posted at a place for minimum period of 3 years as far as possible and if a transfer is made on the basis of some complaint, the transfer be made on the basis of preliminary enquiry. Learned counsel for the petitioner further submits that the impugned order dated 29.04.2005 provides for transfer of the person who were getting salary from other health centre but in the case of the petitioner, she was getting salary from Ruabandha itself not from Khursuni, Gunderdehi, District Durg. Thus in her case, the order dated 29.04.2005 is bad and illegal.

SP/

(31)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.2678 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the respondents submits that the order dated 29.04.2005 is an incidence of service and there is no malafide exercise of power in transferring as many as 38 persons including the petitioner from one place to other place. Grievance of the petitioner is that other persons have been transferred because their salary was not drawn from the old place of posting. The petitioner will be getting her salary from the new place of posting. It is further contended by the learned counsel for the respondents that the petitioner cannot be aggrieved on the ground that she was getting salary from one place or other place. The petitioner is getting the same salary and other benefits as she was getting at the old place of posting.

After having heard learned counsel for the parties and perusing the records, I am of the opinion that there is no violation of clause 4 of the Transfer Policy 2004-05 because clause 4 does not provide for a ban from transferring from one place to other place within a period of 3 years. The clause 4 simply provides that as far as possible a government employee should not be transferred within a period of 3 years. In the present impugned order, the petitioner alone has not been transferred but other persons have also been transferred. Thus this transfer is on account of administrative exigency and not in exercise of malafide power. It is well settled principles of law that in case of transfer, the Courts should refrain from interfering unless it is established that the exercise of power to transfer an employee was malafide or without having competence to transfer the person. In the present case

(32)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.2678/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश –3–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	there is no allegation of malafide and admittedly the officer who passed the transfer order is competent to pass this order. In view of the foregoing, the petition is dismissed. No order as to costs. **Sd/-** **Satish K. Agnihotri** **Judge**	

Sarma